RELEASE

This **RELEASE,** dated July 27th, 2018, is hereby given:

BY the Releasor THE ESTATE OF SUZANNE BARDZELL, referred to herein as "THE ESTATE,"

TO: THE BOROUGH OF MIDLAND PARK And THE MIDLAND PARK POLICE DEPARTMENT," including all of their agents, administrators, police officers, supervisors, assignees, delegates, elected or appointed officials and employees, in their professional and individual capacities; herein referred to collectively as "YOU" or "YOUR" or as "THESE MIDLAND PARK DEFENDANTS" (THE ESTATE and THE MIDLAND PARK DEFENDANTS collectively referred to herein as "THE PARTIES").

1. **Release and Waiver of Claims.** THE ESTATE hereby releases and hereby surrenders and gives up any and all claims and rights which THE ESTATE may have against THESE MIDLAND PARK DEFENDANTS, their administrators, their police officers, their supervisors, their directors, their elected and appointed officials, their employees, their successors and their attorneys. This **RELEASE** applies to any and all claims, rights, demands, causes of action, obligations, damages or expenses, including those of which THE ESTATE is not presently aware, and those which are not specifically mentioned in the Complaint filed on THE ESTATE'S behalf or in this **RELEASE**. This **RELEASE** applies to all claims resulting from any conduct which has occurred to date. THE ESTATE also specifically releases the following claims:

   A. All claims as set forth in the action entitled *ESTATE OF SUZANNE BARDZELL v. BOROUGH OF MIDLAND PARK, MIDLAND PARK POLICE DEPARTMENT, and ARTHUR LOMANDO,* United States District Court for the District of New Jersey, Civil Action No. 2:17-cv-01877 ("the ACTION"), but ONLY releasing and waiving those claims against THE MIDLAND PARK DEFENDANTS, including but not limited to any claims not pleaded therein or any claims cognizable or allowable pursuant to amendment against THESE MIDLAND PARK DEFENDANTS, including but not limited to claims arising from a series of events beginning on or about October 5, 2015 and culminating in the incident which had occurred on October 22, 2015 and which incident had resulted in the death of Suzanne Bardzell when she was stabbed to death by Defendant Arthur Lomando, including but not limited to all claims made by THE ESTATE against THESE MIDLAND PARK DEFENDANTS pursuant to 42 U.S.C. §1983, pursuant to 42 U.S.C. §1985, pursuant to N.J.S.A. 10:6-1, and pursuant to the New Jersey Civil Rights Act, as well as all claims pursuant to any other federal or state civil rights or any state statute or any common law claims, or any claims against THESE MIDLAND PARK DEFENDANTS otherwise arising from state and/or federal right secured by the Constitution and laws of the United States.

B. This **RELEASE** reflects a settlement ONLY between THE PARTIES to this **RELEASE**, that is, between THE ESTATE and THE MIDLAND PARK DEFENDANTS, and this **RELEASE** does not reflect any settlement between THE ESTATE and any other Defendants, including ARTHUR LOMANDO.

2. **Settlement Amount.** THE ESTATE will be paid the total sum of **$272,500.00** in full and final payment for making this RELEASE.

3. **Understanding of THE PARTIES.** This lawsuit is being settled, and in exchange for this **RELEASE** and for the dismissal of this lawsuit in its entirety and with prejudice against THESE MIDLAND PARK DEFENDANTS ONLY, THE ESTATE is receiving compensation for the claims made on behalf of Decedent Suzanne Bardzell, and to reimburse THE ESTATE'S attorneys as to THE ESTATE'S counsel fees and expenses.

Furthermore, THE ESTATE hereby agrees that upon making the payment as set forth in Paragraph 2 above THESE MIDLAND PARK DEFENDANTS shall not be liable in any way for payment of any further counsel fees or costs or expenses to THE ESTATE'S attorneys, and THE ESTATE hereby agrees that none of THE PARTIES to this **RELEASE** including THE ESTATE is considered to be a "prevailing party" under federal or state law. For avoidance of any doubt, THE ESTATE hereby waives and releases any further claims against THESE MIDLAND PARK DEFENDANTS for an award of counsel fees and costs and expenses under any state or federal law, under any prior agreement between any of THE PARTIES, under any statute, or pursuant to the New Jersey Court Rules or the Federal Court Rules or the Local US District Court Rules.

This **RELEASE** includes the voluntary dismissal with prejudice of this ACTION ONLY as to the claims made against THE BOROUGH OF MIDLAND PARK and THE MIDLAND PARK POLICE DEPARTMENT, THE ESTATE has requested the payment be made as indicated, and further waives any additional rights of recovery for damages against THESE MIDLAND PARK DEFENDANTS, including claims for lost wages, personal injury, emotional distress, litigation costs, counsel fees, damages and costs including but not limited to any claims for reimbursement of costs for litigation expenses and medical expenses, pursuant to state or federal law or pursuant to any state or federal statute through the effective date of this **RELEASE**, and as fully set forth in this **RELEASE**.

4. **No Admission of Liability.** THE ESTATE hereby agrees that THESE MIDLAND PARK DEFENDANTS have not admitted to any liability, nor have THESE MIDLAND PARK DEFENDANTS admitted to any wrongdoing or to any violation of any federal, state or Midland Park law, ordinance, statute, rule or regulation, and it is the intention of THE PARTIES to this lawsuit to enter into this settlement solely for the purpose of amicably resolving any and all matters in controversy or dispute, and to avoid the further expenditure of counsel fees and other costs and expenses that would result from continued and protracted litigation between THESE PARTIES ONLY in federal court, and trial.

5. **Confidentiality.** To the extent allowable by law, THE PARTIES including THE ESTATE hereby agree that the terms of this **RELEASE**, including but not limited to the amount and manner of payment of the Settlement Amount, are confidential and to the extent allowable by law shall not be disclosed to or discussed with any person or entity other than THE PARTIES hereto, their attorneys, their accountants, THE BOROUGH OF MIDLAND PARK in closed session, and for the sole purpose of enforcing the provisions of this **RELEASE** with the United States District Court for the District of New Jersey, if necessary.

In the event that THE PARTIES including THE ESTATE are contacted by the press or by the news media, THE PARTIES including THE ESTATE hereby agree that THE PARTIES may reply to the effect that "the case has been resolved," that THE PARTIES have not admitted to any liability or to any wrongdoing or to any violations of law or statute or rule or regulation, and that the basis for the settlement is to avoid protracted litigation and attorney's fees, and that any statement made to this effect will not be considered to be a violation of the Confidentiality provision. In addition thereto, THE PARTIES hereby acknowledge that the resolution of this lawsuit and the monetary payments made herein and the fully-executed **RELEASE** herein are considered to be matters of public record pursuant to *Asbury Park Press v. County of Monmouth*, 406 N.J. Super. 1 (App. Div. 2009), and are not protected by OPRA, in the event of a timely and proper OPRA request by a third party.

THE ESTATE additionally agrees to the return or to the destruction of any and all confidential discovery as provided by THESE MIDLAND PARK DEFENDANTS, and THE ESTATE hereby agrees that THE ESTATE and counsel for THE ESTATE will not maintain any copies or any electronically-stored information regarding same, and THE ESTATE hereby agrees that THE ESTATE and counsel for THE ESTATE will not use or disseminate or allow any third parties to review or to secure copies of any confidential information belonging to THESE MIDLAND PARK DEFENDANTS for any subsequent litigation against THESE MIDLAND PARK DEFENDANTS, or for any other purpose. THE ESTATE hereby agrees that THE ESTATE and counsel for THE ESTATE will return the above-referenced materials to THESE MIDLAND PARK DEFENDANTS, subject to THESE MIDLAND PARK DEFENDANTS' representation that their counsel will maintain copies of such materials in accordance with the Court Rules and Ethics Rules governing the maintenance of such file materials.

This provision and the obligations of this Confidentiality provision shall be continuing, and shall remain in effect in perpetuity.

6. **Non-Disparagement.** THE ESTATE and THE MIDLAND PARK DEFENDANTS hereby agree to make no statements and take no action which would reasonably be expected to disparage each other, or which would reasonably be expected to lead to any publicity (negative or otherwise) regarding THE MIDLAND PARK DEFENDANTS, or the conclusion of this lawsuit, or the reasons for this **RELEASE**.

7. **Taxability.** THE ESTATE hereby agrees that no representations have been made by THESE MIDLAND PARK DEFENDANTS as to either the taxability or non-taxability of any portion of this settlement, and THE ESTATE hereby waives any and all such claims against THESE MIDLAND PARK DEFENDANTS, and THE ESTATE hereby agrees to indemnify THESE MIDLAND PARK DEFENDANTS in the event that the federal or state authorities deem this settlement, or any portion thereof, to be taxable to THE ESTATE, and should this occur THE ESTATE, and THE ESTATE alone, is responsible for the payment of any such federal or state taxes.

8. **Liens.** THE ESTATE and its attorneys hereby certify that no liens exist against the Settlement Amount, and that if any such liens do exist they will be paid in full, compromised or satisfied or released by THE ESTATE. If a lien exists which is not satisfied as required by this Agreement, and if a claim is made by anyone to enforce that lien, THE ESTATE agrees that THE ESTATE will pay that lien in full, or as compromised by the lienholders. This representation is intended to include all liens, including, but not limited to, attorneys' liens, medical provider liens, Medicare and Medicaid liens, workers' compensation liens, all statutory or common law liens and judgment liens. THE ESTATE agrees to indemnify and to hold THESE MIDLAND PARK DEFENDANTS harmless in connection with any claim made by reason of any liens upon the proceeds of this settlement. If a claim is hereafter made against THESE MIDLAND PARK DEFENDANTS by anyone seeking payment of the liens, THE ESTATE will defend, indemnify and hold THESE MIDLAND PARK DEFENDANTS harmless from and against any such liens and/or claims including, but not limited to, claims for counsel fees, costs of suit, and interest.

9. **Medicare/Medicaid Reporting Requirements.** Pursuant to Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007, the Center for Medicare and Medicaid Services must be provided with the Executor's full address, Social Security Number, date of birth, gender and, if available, his Medicare Health Insurance Claim Numbers (HICN) on the form attached to this **RELEASE**. Provision of this information is a condition of this settlement. THE ESTATE understands that this information will be reported by the insurance providers for THESE MIDLAND PARK DEFENDANTS pursuant to federal law. THE PARTIES acknowledge, agree and stipulate that the claims that are the subject of the ACTION entitled *ESTATE OF SUZANNE BARDZELL v. BOROUGH OF MIDLAND PARK, MIDLAND PARK POLICE DEPARTMENT and ARTHUR LOMANDO*, United States District Court for the District of New Jersey, Civil Action No. 2:17-cv-01877 do not concern, relate or address any claim for medical injuries or conditions, past treatment, permanency, or future treatment, despite this reporting procedure.

10. **Voluntary Agreement.** THE ESTATE acknowledges and hereby agrees that its Executor fully understands the terms and conditions of this **RELEASE,** and that the Executor on behalf of THE ESTATE has entered into this settlement and has signed this **RELEASE** voluntarily, without any coercion or duress on the part of any person or entity, and that the Executor is of sound mind, and is not under the influence of any medication or any

other substance which might affect the Executor's ability to enter into this settlement voluntarily.

11. **Advice of Counsel.** THE ESTATE represents and agrees that the Executor on behalf of THE ESTATE was given adequate time to consider all aspects of this **RELEASE** prior to signing it, and to freely and fully consult with and to seek the advice of whomever the Executor on behalf of THE ESTATE deemed appropriate, including but not limited to THE ESTATE'S own litigation attorneys.

12. **Legal Authority**. The Executor on behalf of THE ESTATE represents that he has the full legal authority to enter into this settlement and to sign this **RELEASE** on behalf of THE ESTATE, and that this agreement may not be modified except by an agreement in writing executed by THE PARTIES hereto.

13. **Entire Agreement.** This **RELEASE** constitutes the entire agreement and understanding between THE PARTIES relating to the subject matter contained herein.

14. **Severability.** THE ESTATE agrees that in the event that any portion of this **RELEASE** shall be found to be illegal or to be in violation of public policy, or found for any reason to be unenforceable at law, such finding shall not invalidate any other part of this **RELEASE**.

15. **Governing Law**. THE ESTATE agrees that the procedural and substantive rights, liabilities and remedies of THE PARTIES to this **RELEASE** shall be governed by and shall be construed in accordance with the laws of the State of New Jersey, without regard to New Jersey's choice of law rules.

16. **Jurisdiction.** THE ESTATE agrees to convey personal and subject matter jurisdiction upon the United States District Court for the District of New Jersey exclusively with respect to the enforcement and/or resolution of any dispute concerning, or arising from, this **RELEASE**.

17. **Who is Bound**. THE ESTATE and its Executor on behalf of THE ESTATE are bound by this **RELEASE**. Anyone who succeeds to THE ESTATE'S rights and to THE ESTATE'S responsibilities, such as THE ESTATE'S heirs or the Executor of THE ESTATE is also bound. To the extent that THE ESTATE possesses a statutory or common law claim for reimbursement of counsel fees, costs or disbursements associated with the prosecution of this action pursuant to the decisional or common law of the federal court or of this state or pursuant to any state statute or pursuant to the federal and state Court Rules, it is also THE ESTATE'S intention that THE ESTATE'S attorneys also be bound by this **RELEASE** as to THE ESTATE'S claim for reimbursement of counsel fees, costs or disbursements.

THE ESTATE further agrees that this **RELEASE** is made for THESE MIDLAND PARK DEFENDANTS' benefit and for the benefit of all who succeed to THESE MIDLAND PARK DEFENDANTS' rights and to all who succeed to THESE MIDLAND PARK DEFENDANTS' responsibilities, such as THESE MIDLAND PARK

DEFENDANTS' administrators, directors, elected or appointed officials, employees, police officers, supervisors, agents and attorneys. Though representatives of THESE MIDLAND PARK DEFENDANTS will not be signing this **RELEASE**, THESE MIDLAND PARK DEFENDANTS' administrators, directors, elected or appointed officials, employees, police officers, supervisors, agents and attorneys are parties to the settlement of this lawsuit and to the various agreements contained herein, and upon payment to THE ESTATE of the settlement proceeds, THESE MIDLAND PARK DEFENDANTS and their administrators, directors, elected or appointed officials, employees, agents and attorneys are also specifically bound to all included provisions. THE ESTATE understands that if THESE MIDLAND PARK DEFENDANTS' administrators, directors, elected or appointed officials, employees, police officers, supervisors, agents and attorneys breach any portion of this **RELEASE**, THE ESTATE is free to use this **RELEASE** as evidence in a court of law to enforce the terms and conditions of the settlement as contained in this **RELEASE**, and to seek any injunctive or equitable relief as may be appropriate to remedy any such breach.

Witnessed or Attested by:

LAWRENCE KLEINER, ESQ.
(or a licensed Notary Public)

Dated: 7/22/16

THOMAS PAHL
as Executor of THE ESTATE of Suzanne Bardzell

Dated: 7/22/16

-or-

ERIC V. KLEINER, ESQ.
(or a licensed Notary Public)

Dated: 7/22/16

ESTATE OF SUZANNE BARDZELL

It is hereby understood and agreed that the information provided below will be provided to the Centers for Medicare and Medicaid Services pursuant to the Medicare, Medicaid and SCHIP Extension Act of 2007 by the undersigned as the Executor on behalf of THE ESTATE. THE PARTIES acknowledge, agree and stipulate that the claims that are the subject of this matter do not concern, relate or address any claim for medical injuries or conditions, past treatment, permanency, or future treatment.

Full Name as it appears on The Executor's Social Security Card

THOMAS PAHL

Social Security Number

152-74-5974

Current Address

84 MILLER AVE
ELMWOOD PARK NJ 07407

Date of Birth

12-20-1968

Medicare Health Insurance Claim Number (HICN)

N/A

Gender

MALE

Thomas Pahl

Signature/Date
THOMAS PAHL *as Executor for the Estate of Suzanne Bardzell*